THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 13695 of 2006

Oral order:

The petitioners are employees of erstwhile APSEB. Pursuant to division of APSEB into AP TRANSCO, AP GENCO and four DISCOMS, the petitioners became the employees of AP TRANSCO, and are working as Assistant Divisional Engineers. Considering the requests of their employees for transfer from one company to another, AP TRANSCO, vide orders dated 27.01.2003, issued guidelines for deputation from one company to another, for a period not exceeding five years. Pursuant to the said order, the petitioners state that they opted to go on deputation to the respondents- AP GENCO, and their deputation is being extended every year. While so, the petitioners state that the 1st respondent issued letter dated 22.04.2006 addressed to the 2nd respondent and other Chief Engineers to take action for repatriation of the DEs/ADEs/AEs/AAEs as their deputation is coming to an end on 30.06.2006. On coming to know of the said letter, the petitioners state that they made representations to the 2nd respondent to continue their deputation till 31.12.2007, and it is the case of the petitioners that 2nd respondent while forwarding their representations to the 1st respondent vide his letter dated 03.05.2006 recommended extension of the deputation of the petitioners till 31.12.2007, and when the 1st respondent without considering the same, instructed the 2nd respondent to relieve the petitioners, they filed writ petition in W.P. No. 13085 of 2006, and this Court by order dated 29.06.2005, disposed of the same directing the 1st respondent to consider and dispose of the representations of the petitioners in the light of the recommendations made by the 2nd respondent. In pursuance of the said directions, the 1st respondent considered the request of the petitioners, and vide orders dated 30.06.2006, impugned in this writ petition, directed the 2nd and 3rd respondents to relieve the petitioners on 07.07.2006 A.N.

The learned counsel for the petitioners submitted that having

regard to the orders dated 27.01.2003 of the 1st respondent, which provided that the period of deputation shall not exceed five, the petitioners opted for deputation to the respondents-AP GENCO. In terms of the said orders, their deputation is being extended every year, and the third extension was made upto 30.06.2006. While so, the 1st respondent on 22.04.2006 addressed a letter to the

2nd respondent to relieve the petitioners after expiry of their deputation on 30.06.2006. The learned counsel submitted that even though the 2nd respondent vide his letter dated 03.05.2006 while forwarding the representations of the petitioners to the

1st respondent, recommended the case of the petitioners for extension of their deputation till 31.12.2007, and despite directions dated 29.06.2006 made by this Court in W.P. No. 13085 of 2006, the 1st respondent contrary to the orders of this Court, has passed the impugned orders, directing the 2nd respondent to relieve the petitioners by the afternoon of 07.07.2006, which is illegal and arbitrary. The learned counsel further submitted that if the petitioners are repatriated in the middle of the year, it would disturb the education of their children, and since the 1st respondent has extended deputation of similarly placed employees till 30.04.2007, the same benefit be extended to the petitioners, else it would amount to they being discriminated.

The respondents-AP GENCO filed counter. The learned Standing Counsel appearing on behalf of the respondents while reiterating the counter averments submitted that the period of deputation of the petitioners is being extended from time to time with the consent of the companies, and it was extended upto 30.06.2006. The order dated 27.01.2003, on which the petitioners contend that they should be continued on deputation for a period of five years, merely prescribes the upper limit, and it does not mean that the petitioners should be continued till the expiry of five years. She submitted that Regulation 3(b) of APSEB Service Regulations, adopted by AP TRANSCO, states that the department can recall their employees on deputation at any time. AP TRANSCO has been pursuing for repatriation of the petitioners, and for repatriation of the petitioners, they have also addressed letter dated 14.07.2005 requesting AP GENCO to relieve all those who are on deputation by 20.06.2006.

This apart, AP GENCO with which the petitioners are on deputation, in the recent past has had recruited large number of Assistant Engineers and also gave quite number of promotions to the cadre of Assistant Divisional Engineers. In such circumstances, the respondents having considered the requests of the petitioners, as directed by this Court, have taken a decision to relieve the petitioners on 07.07.2006, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The contention of the petitioners that in terms of the orders dated 27.01.2003 of AP TRANSCO, they are entitled to continue on deputation with AP GENCO for a period of five years cannot be accepted. A reading of para 6(i) of the said order would indicate that it merely prescribes the upper limit of deputation, in that it states that the period of deputation shall not exceed five years, meaning thereby that the deputation period shall not be permitted beyond the upper limit of five years. Merely because the order prescribes that the period of deputation shall not exceed five years, it does not mean that the petitioners who are on deputation, are entitled to continue till the expiry of five years, and more so when it is the specific case of the respondents as well as the petitioners that the deputation of the petitioners is being extended year after year and was to end on 30.06.2006.

The petitioners, as a matter of right, cannot claim continuance on deputation. Their continuance on deputation in the deputation department, is dependent on the consent of the parent department and requirement of the deputation department. In the instant case, as can be seen from the counter of the respondents, AP TRANSCO-parent department had addressed a letter to AP GENCO as far back as on 14.07.2005 followed by another letter dated 22.04.2006, requesting them to relieve the petitioners by 30.06.2006, on which day their deputation is coming to an end. When the parent department itself want the services of the petitioners, and when the deputation department, namely AP GENCO does not require the petitioner for it recruited required number of Assistant Engineers and also gave promotions to the post of Assistant Divisional Engineers, the petitioners cannot be allowed to contend that they should be continued in the deputation department till expiry of the five year period, as prescribed in the order permitting deputation, and more so when the

deputation of the petitioners is being renewed every year and has come to an end on 30.06.2006.

It is the contention of the petitioners that the 2nd respondent while forwarding their representations vide letter dated 03.05.2006, addressed to the 1st respondent, had requested the extension of the period of deputation of the petitioners till 31.12.2007, and though in the case of some employees, such extension was given, the same is denied in the case of the petitioners. May be in the case of some employees, but that by itself cannot be a ground for the petitioner to contend that they should also be continued on deputation till 31.12.2007. Pursuant to the orders dated 29.06.2006, passed by this Court in W.P. No. 13085 of 2006, filed by the petitioners earlier, the 1st respondent considered the representation of the petitioners and vide orders dated 06.07.2006 rejected the same holding that the officer under whom they are working while forwarding their representation, has not made any specific recommendations for their continuance on deputation, and in fact, he had informed in his letter dated 23.06.2006 that he would relieve all the deputationists by the end of 30.06.2006. When the 2nd respondent is said to have not made any specific recommendations for continuance of the petitioners on deputation, no exception can be taken to the action of the respondents in seeking to relieve the petitioners and repatriating them to their parent department.

At this stage, the learned counsel for the petitioners submitted that the petitioners want to make representation to the respondents, it is for them to do so, and no direction in that regard is required from this Court.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Dated: 27th November, 2006.
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